

REMARKS

These remarks are set forth in response to the Final Office Action. As this amendment has been timely filed within the three-month shortened statutory period, neither an extension of time nor a fee is required. At the time of the New Non-Final Office Action, Claims 1 through 5 and 13 through 19 were pending and rejected in this application. In the Final Office Action, claims 1 through 5 and 13 through 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/0195923 by Bloch et al. (Bloch) in view of U.S. Patent No. 7,130,408 to Creamer et al. (Creamer). In response, Applicants respectfully request the removal of Creamer as a reference under 35 U.S.C. § 103(c).

Specifically, Creamer enjoys a filing date of June 14, 2002 prior to the filing date of Applicants' patent application, and an issue date of October 31, 2006 subsequent to Applicants' patent application making Creamer a reference citable as prior art under 35 U.S.C. § 102(e). 35 U.S.C. § 103(c)(1) provides in pertinent part,

(c)(1) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Pursuant to 35 U.S.C. § 103(c)(1), Applicants submit that Creamer should not be combined as 102(e) art with other references in order to support a prima facie case of obviousness as Creamer had been commonly assigned to International Business Machines Corporation along with the present patent application. Accordingly, Applicants respectfully request the withdrawal of the rejections under 35 U.S.C. § 103(a) of claims 1 through 5 and 13 through 19.

This entire application is now believed to be in condition for allowance and such action is respectfully requested. The Applicants request that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

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